STATUTORY RULES OF NORTHERN IRELAND

2000 No. 303

FOOD

Food Irradiation Provisions Regulations (Northern Ireland) 2000

Made - - - -	*18th October 2000*
Coming into operation	*27th November 2000*

Whereas in accordance with Article 18(2) of the Food Safety (Northern Ireland) Order 1991(**1**) it appears to the Department of Health, Social Services and Public Safety(**2**) that it is necessary or expedient—

(a) for the purpose of securing that food complies with food safety requirements and in the interests of the public health; and

(b) for the purpose of protecting or promoting the interests of consumers,

to make the following Regulations;

Now, therefore, that Department in exercise of the powers conferred by Articles 15(1) to (3), 16(1), 17(1), 18(1)(*b*), 25(3), 44 and 47(2) of, and paragraphs 1 and 4(*b*) of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991 and of every power enabling it in that behalf after consultation in accordance with Article 47(3) of the said Order of 1991 with such organisations as appear to it to be representative of interests likely to be substantially affected by the Regulations and having regard, in accordance with Article 47(3A) of the said Order of 1991 to any relevant advice given by the Food Standards Agency, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food Irradiation Provisions Regulations (Northern Ireland) 2000 and shall come into operation on 27th November 2000.

Amendments to the Food (Control of Irradiation) Regulations (Northern Ireland) 1992

2. The Food (Control of Irradiation) Regulations (Northern Ireland) 1992(**3**) shall be amended in accordance with regulations 3 to 12.

3. In paragraph (1) of regulation 2 (interpretation)—

(**1**) S.I.1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28

(**2**) Formerly the Department of Health and Social Services; *see* S.I. 1999/283 Article 3

(**3**) S.R. 1992 No. 172 as amended by S.R. 2000 No. 78

(a) there shall be inserted immediately after the definition of "the Agency" the following definitions—

""the Directives" means Directive 1999/2 and Directive 1999/3;

"Directive 1999/2" means the European Parliament and Commission Directive 1999/2/EC on the approximation of the laws of the member States concerning foods and food ingredients treated with ionising radiation(**4**);

"Directive 1999/3" means the European Parliament and Commission Directive 1999/3/EC on the establishment of a Community list of foods and food ingredients treated with ionising radiation(**5**);"; and

(b) in the definition of "ionising radiation", for "0.5 Gy" in paragraph (*a*)(iii) there shall be substituted "0.01 Gy in the case of inspection devices which utilise neutrons and 0.5 Gy otherwise" and for "and 5 MeV otherwise" there shall be substituted ", 14 MeV in the case of neutrons and 5 MeV otherwise".

4. After regulation 6 (restriction on sale) there shall be inserted the following regulation—

"**Labelling of non-consumer foods**

6A. (1) In the case of foods subject to treatment by ionising radiation not intended for sale to the ultimate consumer or catering establishments "irradiated" or "treated with ionising radiation" shall be indicated on the documents which accompany or refer to those foods;

(b) either the identity and address of the facility which carried out the irradiation, or the official reference number, shall be indicated on the documents referred to in sub-paragraph (*a*).

(2) In this regulation "ultimate consumer" and "catering establishment" have the meaning given in regulation 2(1) of the Food Labelling Regulations (Northern Ireland) 1996(**6**); and "the official reference number" is that referred to in Article 7.1 of Directive 1999/2.".

5. For regulation 8 (defence in relation to exports) there shall be substituted—

"In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that the food, in respect of which the offence is alleged to have been committed, was intended for export to a country which is not a member of the European Community, that that country had legislation analogous to these Regulations and that the food complies with such legislation.".

6. In Schedule 1 (irradiation licences), in Part I (issue of irradiation licences), in paragraph 1—

(a) the words "and how that would benefit consumers" shall be inserted at the end of sub-paragraph (*f*)(i);

(b) the following sub-paragraph shall be inserted between sub-paragraphs (*f*) and (*g*)—

"(fa) in respect of each description of food specified pursuant to sub-paragraph (*e*), particulars demonstrating that his operation will be in conformity with Annex III to Directive 1999/2 and the Joint FAO/WHO Codex Alimentarius Commission Recommended International Code of Practice for the operation of irradiation facilities used for the treatment of foods ("the Code of Practice") [reference FAO/WHO/CAC, vol. XV, edition 1],";

(**4**) O.J. No. L66, 13.3.1999, p. 16
(**5**) O.J. No. L66, 13.3.1999, p. 24
(**6**) S.R. 1996 No. 383; relevant amending Regulations are S.R. 1998 No. 253, S.R. 1999 Nos. 143 and 286 and S.R. 2000 No. 189

(c) the following sub-paragraph shall be inserted between sub-paragraphs (*g*) and (*h*)—

"(ga) details of the person who has been designated to be responsible for compliance with the conditions necessary for application of the practices referred to in sub-paragraph (g),".

7. In Schedule 1, in Part I, in paragraph 3—

(a) immediately before sub-paragraph (1)(*b*) there shall be inserted the following—

"(aa) that the irradiation will be performed in conformity with the Code of Practice,";

(b) in sub-paragraph (1)(*g*), after "paragraph 1(*f*)(iv)" there shall be inserted "are in conformity with Annex III to Directive 1999/2 and";

(c) in sub-paragraph (1)(*h*) "and" at the end shall be omitted;

(d) after sub-paragraph (1)(i) there shall be added the following—

"and

(j) that the irradiation will be of benefit to the consumer,"; and

(e) in paragraph 4, for "sub-paragraphs (1)(*a*) to (*i*)" there shall be substituted "sub-paragraphs (1)(*a*) to (*j*)".

8. In Schedule 1, in Part II (conditions of irradiation licences)—

(a) in paragraph 9(1) there shall be inserted at the beginning "The licence shall prohibit the applicant from subjecting any food to treatment by ionising radiation in combination with any chemical treatment having the same purpose as that treatment." ;

(b) the contents of paragraph 15 shall be numbered "(1)" and there shall be added the following sub-paragraph—

"(2) The licence shall require the applicant to preserve the records referred to in sub-paragraph (1) for a period of 5 years after making.";

(c) for paragraph 16(1) there shall be substituted the following—

"(1) The licence shall require the applicant to send to the licensing authority within twenty-eight days after each anniversary of the date from which the licence runs a written return in respect of the year ending with that anniversary."; and

(d) for paragraph 18 (duration) there shall be substituted the following—

"**Duration**

18. The licence shall, subject to Part III, continue in effect unless withdrawn or suspended in accordance with the provisions of Part IV or surrendered by the applicant to the licensing authority; and existing licenses shall be construed accordingly.".

9. In Schedule 1, in Part III (alteration of conditions of irradiation licence), for paragraph 1(1) there shall be substituted the following—

"(1) The licensing authority and the applicant may, subject to paragraph 2, and to payment by the applicant to the licensing authority of a charge therefor (hereinafter referred to as "a variation agreement charge"), agree to vary—

(a) the term of the licence inserted by virtue of paragraph 4 of Part II(**7**), but only if the licence will if so varied apply to the same one of the seven permitted descriptions of

(**7**) Paragraph 4 requires the irradiation licence to specify each description of food to which it applies

food that it did prior to the variation; and in deciding whether or not to agree to vary that term the licensing authority shall consider whether it is satisfied that the conditions of the licence inserted by virtue of paragraph 5 or 6 of Part II are appropriate to the new description of food, or should be varied, and whether any new conditions should be inserted;

(b) any condition of a licence inserted by virtue of paragraph 5 or 6 of Part II.".

10. In Schedule 1, in Part IV (cancellation, suspension and extension of irradiation licence)—

(i) in the heading "*Cancellation, suspension and extension of irradiation licence*" for ", *suspension and extension*" there shall be substituted "*and suspension*";

(ii) paragraphs 4 and 5 shall be revoked.

11. In Schedule 1, in Part VI (charges)—

(a) for paragraph 1 there shall be substituted the following—

"**1.** For the purposes of this Schedule—

(a) the amount of the application consideration charge is £5,000 plus—

(i) if more than one description of food is specified by virtue of paragraph 1(*e*) of Part I, a sum (fixed at the discretion of the licensing authority) no greater than £1,500 × A where A is one less than the number of descriptions of food so specified; and

(ii) if the application (however many descriptions of food the application relates to) falls within paragraph 3(3) of Part I, a sum (fixed at the discretion of the licensing authority) no greater than the sum which would otherwise have been payable in respect of the original application;

(b) the amount of the inspection charge is £750 for each inspection carried out in respect of which an inspection charge is payable;

(c) the amount of the variation agreement charge is—

(i) in the case of a variation pursuant to paragraph 1(1)(*a*) of Part III whereby the licence, if varied, will apply to a description of food not specified in the term of the licence inserted by virtue of paragraph 4 of Part II which specifies each description of food to which the licence applies, a sum (fixed at the discretion of the licensing authority) no greater than £1,500 × (B–C) where B is the number of descriptions of food to which the licence, if varied, will apply and C is the number of descriptions of food specified in the term; and

(ii) £500 in any other case.";

(b) in paragraph 2—

(i) for "other than a pure continuation licence, £1,800" in sub-paragraph (*a*) there shall be substituted ", £1,500"; and

(ii) for "£2,700" in sub-paragraph (*b*) there shall be substituted "£2,250".

12. For Schedule 2 (importation of food) there shall be substituted the following—

"SCHEDULE 2 Regulation 4

Importation of Food

PART I:

Importation from other member States

1. This Part applies to the importation of food irradiated in other member States.

2. For the purposes of regulation 4—

   (a) "recognised appropriate origin" means origin in a plant, authorised by the Competent Authority of that State, which is listed in the Official Journal of the European Communities pursuant to Article 4.6 of Directive 1999/2; and

   (b) "appropriate documentation" means documentation containing the information referred to in regulation 6A(1)(*b*).

PART II:

Importation from third countries

1. This Part applies to the importation of food irradiated in a country (or territory) outside the European Community.

2. In the case of herbs and spices, for the purposes of regulation 4—

   (a) "recognised appropriate origin" means origin in a plant approved pursuant to Article 9 of Directive 1999/2, and listed in the Official Journal of the European Communities pursuant to that Article; and

   (b) "the appropriate documentation" means the documents referred to in the second indent of paragraph 1 of the said Article 9.

3. In the case of food other than herbs and spices—

(1) Recognition of appropriate origin shall be effected by publication by the Agency of a notice in the London Gazette declaring that an origin is an appropriate origin for the purposes of these Regulations.

(2) "Origin" means, in relation to a country or territory specified in the notice, origin in that country or territory.

(3) Recognition of appropriate origin may not be effected by the Agency in respect of any country unless it is satisfied—

   (a) that in that country food which is subjected to treatment by ionising radiation may only be so subjected if the person who subjects it has a current irradiation licence granted, under a reference by which that licence can be identified, by a competent authority in that country,

   (b) that any irradiation licence granted in that country includes provision for an approved method of measurement relating to food to which the licence relates, and

   (c) that the operation of the legislation in force in that country relating to the subjection there of food to treatment by ionising radiation protects human health to an extent not less than human health is protected by operation of these Regulations.